

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- x  
DARRIUS REID,

Plaintiff,

-against-

**NOTICE OF MOTION**

07 CV 9788 (PAC)(MHD)

NEW YORK CITY, NEW YORK POLICE DEPT, 5  
JOHN DOE POLICE OFFICERS FROM 14<sup>TH</sup>  
PRECINCT,

Defendants.  
----- x

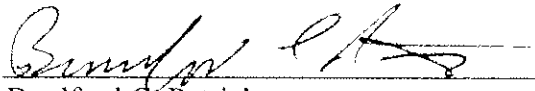
**PLEASE TAKE NOTICE** that upon the annexed memorandum of law dated June 18, 2008, the declaration of Bradford C. Patrick dated June 18, 2008, the exhibits attached thereto, and upon all the prior pleadings and proceedings had herein, defendants the City of New York and New York City Police Department will move this Court before the Honorable Michael H. Dolinger, United States Magistrate Judge, at the United States Courthouse for the Southern District Court of New York, located at 500 Pearl Street, New York, New York 10007, on a date to be set by the Court, for an Order pursuant to Rule 37(b)(2) and 41(b) of the Federal Rules of Civil Procedure, dismissing plaintiff Darrius Reid's complaint against the defendants, with prejudice, and for such other and further relief as this Court deems just and proper.

**PLEASE TAKE FURTHER NOTICE**, that opposition papers, if any, shall be served on the undersigned or before July 16, 2008.

**PLEASE TAKE FURTHER NOTICE** that reply papers, if any, shall be served on or before July 30, 2008.

Dated: New York, New York  
June 18, 2008

Michael A. Cardozo  
Corporation Counsel of the  
City of New York  
Attorney for Defendants City of New York and  
New York City Police Department  
100 Church Street  
New York, New York 10007  
(212) 788-1575

By:   
Bradford C. Patrick  
Assistant Corporation Counsel  
Special Federal Litigation Division

To: BY MAIL (Address of Record)  
Darrius Reid, #241-07-13328  
Plaintiff Pro Se  
Northern Infirmary Command  
15-00 Hazen St.  
East Elmhurst, NY 11370

BY MAIL (Address Obtained from CCRB)  
Darrius Reid  
Plaintiff Pro Se  
427 Baltic St., Apt. 4E  
Brooklyn, NY 11217

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- x  
DARRIUS REID,

Plaintiff,

-against-

NEW YORK CITY, NEW YORK POLICE DEPT, 5  
JOHN DOE POLICE OFFICERS FROM 14<sup>TH</sup>  
PRECINCT,

Defendants.

**DECLARATION OF  
BRADFORD C. PATRICK IN  
SUPPORT OF  
DEFENDANTS' MOTION TO  
DISMISS THE COMPLAINT  
PURSUANT TO FED. R. CIV.  
P. 37(B)(2) AND 41(B)**

07 CV 9788 (PAC)(MHD)

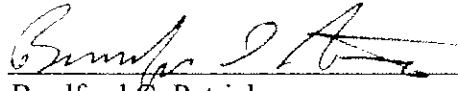
----- x  
**BRADFORD C. PATRICK**, an attorney duly admitted to practice in the State of New York, declares under penalty of perjury and pursuant to 28 U.S.C. § 1746, that the following statements are true:

1. I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for defendants the City of New York and New York City Police Department. As such, I am familiar with the facts and circumstances of this action. I make this declaration in support of Defendants' Motion to Dismiss the Complaint Pursuant to Rules 37(b)(2) and 41(b) of the Federal Rules of Civil Procedure for plaintiff's failure to prosecute this action.
2. In support of their motion, defendants submit the exhibits described below.

3. Annexed as Exhibit "A" is a copy of the Court's electronic docket sheet in this action.
4. Annexed as Exhibit "B" is an endorsed copy of plaintiff's Application for the Court to Request Counsel dated December 14, 2007.
5. Annexed as Exhibit "C" are copies of envelopes mailed to plaintiff that have been returned to sender dated February 25, 2008, March 11, 2008, April 11, 2008, April 24, 2008 and May 28, 2008.

Dated: New York, New York  
June 18, 2008

Michael A. Cardozo  
Corporation Counsel of the  
City of New York  
Attorney for Defendants City of New York and  
New York City Police Department  
100 Church Street  
New York, New York 10007  
(212) 788-1575

By:   
Bradford C. Patrick  
Assistant Corporation Counsel  
Special Federal Litigation Division

To: BY MAIL (Address of Record)  
Darrius Reid, #241-07-13328  
Plaintiff Pro Se  
Northern Infirmary Command  
15-00 Hazen St.  
East Elmhurst, NY 11370

BY MAIL (Address Obtained from CCRB)  
Darrius Reid  
Plaintiff Pro Se  
427 Baltic St., Apt. 4E  
Brooklyn, NY 11217

# EXHIBIT A

CASREF, PLRA, PRO-SE

**U.S. District Court**  
**United States District Court for the Southern District of New York (Foley Square)**  
**CIVIL DOCKET FOR CASE #: 1:07-cv-09788-PAC-MHD**

Reid v. City of New York et al  
Assigned to: Judge Paul A. Crotty  
Referred to: Magistrate Judge Michael H. Dolinger  
Demand: \$9,999,000  
Cause: 42:1983 Civil Rights Act

Date Filed: 11/05/2007  
Jury Demand: Plaintiff  
Nature of Suit: 550 Prisoner: Civil Rights  
Jurisdiction: Federal Question

**Plaintiff****Darrius Reid**

represented by **Darrius Reid**  
241-07-13328  
North Infirmary Command  
15-00 Hazen Street  
East Elmhurst, NY 11370  
PRO SE

V.

**Defendant****City of New York****Defendant****New York Police Dept.****Defendant****Joe Doe***5 Police Officers from the 14th Precinct*

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
11/05/2007	1	ENDORSEMENT on Declaration in Support of Request to Proceed In Forma Pauperis, I.F.P. REQUEST IS GRANTED. (Signed by Judge Kimba M. Wood on 11/2/07) (kco) (Entered: 11/09/2007)
11/05/2007	2	COMPLAINT against City of New York, New York Police Dept., Joe Doe. Document filed by Darrius Reid.(kco) (Entered: 11/09/2007)
11/05/2007		Magistrate Judge Michael H. Dolinger is so designated. (kco) (Entered: 11/09/2007)
11/05/2007		Case Designated PLRA purs. to Prison Litigation Reform Act Section 7(2)(g) (2). (kco) (Entered: 11/09/2007)

11/14/2007	3	ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for General Pretrial (including scheduling, discovery, non-dispositive pretrial motions, and settlement) and Dispositive Motion (i.e. motion requiring a Report and Recommendation). Referred to Magistrate Judge Michael H. Dolinger. (Signed by Judge Paul A. Crotty on 11/13/07) Copies Mailed By Chambers.(tro) (Entered: 11/15/2007)
01/03/2008	4	MOTION for an order for the Court to request counsel. Document filed by Darrius Reid.(pl) (Entered: 01/11/2008)
02/13/2008	5	ACKNOWLEDGMENT OF SERVICE of Summons and Complaint. City of New York served on 2/4/2008, answer due 2/24/2008. Service was accepted by Anna Nguyen, Atty. Document filed by Darrius Reid. (djc) (Entered: 02/26/2008)
02/26/2008	6	ENDORSED LETTER addressed to Magistrate Judge Michael H. Dolinger from Bradford C. Patrick dated 2/25/08 re: Counsel writes to request that the Court grant the within request extending defendants City and NYPD's time to answer or otherwise respond to the complaint until 4/28/08. ENDORSEMENT: Application granted., City of New York answer due 4/28/2008; New York Police Dept. answer due 4/28/2008. (Signed by Magistrate Judge Michael H. Dolinger on 2/26/08) (jco) (Entered: 02/26/2008)
02/28/2008	7	MEMO ENDORSEMENT ON APPLICATION FOR THE COURT TO REQUEST COUNSEL. ENDORSEMENT: This application is denied without prejudice as premature. We cannot grant the relief requested without first determining that there is some potential merit to plaintiff's case. We cannot do so before defendants answer and some discovery takes place. (Signed by Magistrate Judge Michael H. Dolinger on 2/27/08) (dle) (Entered: 02/28/2008)
03/07/2008	8	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED Summons and Complaint served. New York Police Dept. served on 3/4/2008, answer due 3/24/2008. Service was accepted by S. Bonit (clerk). Document filed by Darrius Reid. (dle) (Entered: 03/10/2008)
04/28/2008	9	ENDORSED LETTER addressed to Magistrate Judge Michael H. Dolinger from Bradford C. Patrick dated 4/24/08 re: Counsel for The City of New York and NYPD request an order compelling plaintiff Darrius Reid to provide the outstanding releases to access plaintiff's medical records and for the unsealing of the underlying criminal records in this action by a date certain on pain of dismissal. Counsel also requests a corresponding thirty-day enlargement of time to answer or otherwise respond to the complaint from the date of defendants' receipt of releases. ENDORSEMENT: Plaintiff is to advise the court and defendants' attorney within two weeks of his current mailing address. The deadline for defendant to respond to the complaint is extended to May 28, 2008. If plaintiff has received the releases mailed to him by defendants, he is to sign and return them by May 18, 2008. If he has not received them, he is to advise defendants' attorney and the court promptly. City of New York answer due 5/28/2008; New York Police Dept. answer due 5/28/2008. (Signed by Magistrate Judge Michael H. Dolinger on 4/25/08) (tro) (Entered: 04/28/2008)

05/23/2008	10	ENDORSED LETTER addressed to Magistrate Judge Michael H. Dolinger from Bradford C. Patrick dated 5/22/2008 re: Counsel respectfully request that the Court grant the dismissal of this action with prejudice for plaintiff's failure to prosecute this action pursuant to F.R.C.P. 41(b) or, in alternative grant defendants 30 days from receipt of the outstanding releases to answer or otherwise respond to the complaint. ENDORSED ORDER: If defendant's wish to seek dismissal of the complaint they are to proceed by formal method. (Signed by Magistrate Judge Michael H. Dolinger on 5/23/2008) (jfe) Modified on 6/11/2008 (jfe). (Entered: 05/23/2008)
06/02/2008	11	ENDORSED LETTER addressed to Magistrate Judge Michael H. Dolinger from Bradford C. Patrick dated 5/28/08 re: Counsel for the City of New York and the New York City Police Department request that Your Honor endorse the briefing schedule as follows: motion due by 6/18/08; opposition papers, if any, due by 7/16/08; reply papers, if any, due by 7/30/08. In addition, defendants request that their time to answer or otherwise respond to the complaint be stayed pending the disposition of defendants' motion. ENDORSEMENT: Application granted. (Signed by Magistrate Judge Michael H. Dolinger on 5/29/08) (tro) (Entered: 06/02/2008)

PACER Service Center			
Transaction Receipt			
06/12/2008 17:12:49			
<b>PACER Login:</b>	ny0001	<b>Client Code:</b>	Optional for PACER use only
<b>Description:</b>	Docket Report	<b>Search Criteria:</b>	1:07-cv-09788-PAC-MHD
<b>Billable Pages:</b>	2	<b>Cost:</b>	0.16

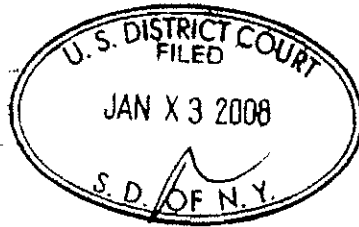


# EXHIBIT B

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Darrius Reid

4



PRO SE OFFICE

(In the space above enter the full name(s) of the plaintiff(s)/petitioner(s).)

07 Civ. 9788 PAC ( ) ( )

-against-

New York City  
New York Police Dept  
55 John Doe Police officers  
from 14th PCT

APPLICATION FOR THE COURT  
TO REQUEST COUNSEL

(In the space above enter the full name(s) of the defendant(s)/respondent(s).)

1. Name of applicant. Darrius Reid 2/28/08

2. Explain why you feel you need a lawyer in this case. (Use additional paper if necessary)

I am legally Blind

3. Explain what steps you have taken to find an attorney and with what results. (Use additional paper if necessary)

I am incarcerated in  
a medical ANNEX and They have  
very limited resources

4. If you need a lawyer who speaks in a language other than English, state what language you speak:

5. I understand that if a lawyer volunteers to represent me and my lawyer learns that I can afford to pay for a lawyer, the lawyer may give this information to the Court.

6. I understand that if my answers on my Request to Proceed *In Forma Pauperis* are false, my case may be dismissed.

7. I declare under penalty of perjury that the foregoing is true and correct.

Dated: 12/14/07

Darrius Reid  
Signature

ENDORSED  
ORDER

M/V  
2/27/08

This application is denied without prejudice as premature. We cannot grant the relief requested without first determining that there is some potential merit to plaintiff's case. We cannot do so before defendant's answer and some discovery takes place.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Darrius Reid

(In the space above enter the full name(s) of the plaintiff(s)/petitioner(s).)

07 Civ. 9788 PAC ( ) ( )

-against-

New York City  
New York Police Dept  
S John Doe Police Officers

**REQUEST TO PROCEED  
IN FORMA PAUPERIS  
FOR APPLICATION FOR THE  
COURT TO REQUEST COUNSEL**

(In the space above enter the full name(s) of the defendant(s)/respondent(s).)

I, Darrius Reid, (print or type your name) am the plaintiff/petitioner in the above entitled case and I hereby request to proceed *in forma pauperis* and without being required to prepay fees or costs or give security. I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor, and that I believe I am entitled to redress.

1. If you are presently employed:  
a) give the name and address of your employer  
b) state the amount of your earnings per month

NO

2. If you are NOT PRESENTLY EMPLOYED:  
a) state the date of start and termination of your last employment  
b) state your earnings per month

**YOU MUST ANSWER THIS QUESTION EVEN IF YOU ARE INCARCERATED.**

Disabled

3. Have you received, within the past twelve months, any money from any source? If so, name the source and the amount of money you received.

stopped due to incarceration

- a) Are you receiving any public benefits? ☒ No. ☐ Yes, \$ \_\_\_\_\_  
b) Do you receive any income from any other source? ☒ No. ☐ Yes, \$ \_\_\_\_\_

LITIGATION  
OVERVIEWJURISDICTION  
AND VENUE

ACTION IN THIS COURT

4. Do you have any money, including any money in a checking or savings account? If so, how much?

☒ No. ☐ Yes, \$ \_\_\_\_\_.

5. Do you own any apartment, house, or building, stock, bonds, notes, automobiles or other property? If the answer is yes, describe the property and state its approximate value.

☒ No. ☐ Yes, \_\_\_\_\_.

6. Do you pay for rent or for a mortgage? If so, how much each month?

☒ No. ☐ Yes, \$ \_\_\_\_\_.

7. List the person(s) that you pay money to support and the amount you pay each month.

\_\_\_\_\_  
N/A  
\_\_\_\_\_

8. State any special financial circumstances which the Court should consider.

I am incarcerated and legally  
Blind  
\_\_\_\_\_  
\_\_\_\_\_

I understand that the Court shall dismiss this case if I give a false answer to any questions in this declaration.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 14 day of December, 2007  
date month year

Darius Reid  
Signature

# EXHIBIT C

THE CITY OF NEW YORK  
LAW DEPARTMENT  
100 CHURCH STREET  
NEW YORK, N.Y. 10007

*RTS*  
*to yoh*

NOT HERE - RETURN TO SENDER

*RTS*  
*Discharge*

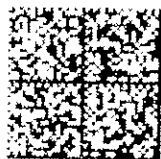
FOR POLICE & FIRE EMERGENCY ONLY  
DIAL 911

THE CITY OF NEW YORK  
LAW DEPARTMENT  
100 CHURCH STREET  
NEW YORK, N.Y. 10007

*Discharge*

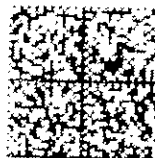
NOT HERE - RETURN TO SENDER

Darius Reid, #41-07-3328  
North Harlem Comm and  
1500 Hazen Street



UNITED STATES POSTAGE  
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PERMIT NO. 1000  
NEW YORK, NY 10007  
MAILED FROM ZIP CODE 10007

NEW YORK DEPARTMENT OF CORRECTIONS  
NO RECORD  
DATE



UNITED STATES POSTAGE  
\$00.41  
PERMIT NO. 1000  
NEW YORK, NY 10007  
MAILED FROM ZIP CODE 10007

THE CITY OF NEW YORK  
LAW DEPARTMENT  
100 CHURCH STREET  
NEW YORK, N.Y. 10007



7003 2260 0005 8673 0018

Darrius Reid  
427 Baltic St., Apt. 4E  
Brooklyn, NY 11218

FOR POLICE & FIRE EMERGENCY ONLY  
DIAL 911

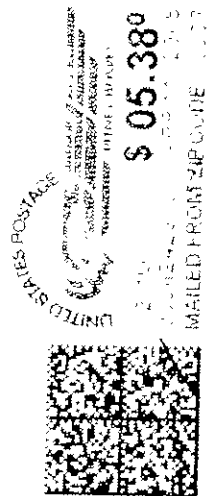
THE CITY OF NEW YORK  
LAW DEPARTMENT  
100 CHURCH STREET  
NEW YORK, N.Y. 10007

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NOT HERE - RETURN TO SENDER

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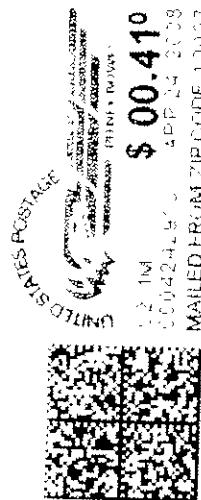
NIXIE

112 3E 1 38 05/06/08

RETURN TO SENDER  
UNCLAIMED  
UNABLE TO FORWARD

BC: 10007121901 \*0545-10180-11-43

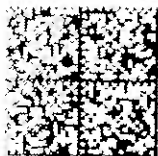
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0004241500 APR 24 2008  
MAILED FROM ZIP CODE 10007

THE CITY OF NEW YORK  
LAW DEPARTMENT  
100 CHURCH STREET  
NEW YORK, N.Y. 10007

R.T.S.



000424200 MAY 19 2008  
MAILED FROM ZIP CODE 10007

R.T.S.  
RETURN TO SENDER

☐ OTHER  
☐ INSUFFICIENT ADDRESS  
☐ INSUFFICIENT NOT KNOWN  
☐ ATTEMPTED NOT KNOWN STREET  
☐ NO SUCH NUMBER AS ADDRESSED  
☐ NOT DELIVERABLE AS ADDRESSED  
☐ UNABLE TO FORWARD

Port 5-00 East  
A C S

FOR POLICE & FIRE EMERGENCY ONLY  
DIAL 911

443355442281 8892





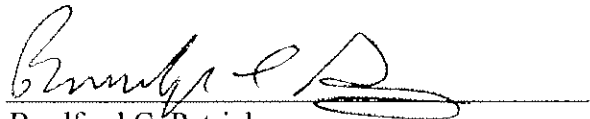
**DECLARATION OF SERVICE**

I, Bradford C. Patrick declare, pursuant to 28 U.S.C. § 1746, under the penalty of perjury that on **June 18, 2008** I served the annexed **Notice of Motion and Declaration of Bradford C. Patrick in Support of Defendants' Motion to Dismiss the Complaint Pursuant to Fed. R. Civ. P. 37(b)(2) and 41(b)** upon the following individual by depositing a copy of the same, enclosed in a first class postpaid properly addressed wrapper, in a post office/official depository under the exclusive care and custody of the United States Postal Service, within the State of New York, directed to the said plaintiff pro se at the address set forth herein, being the address designated by said plaintiff for that purpose, to wit:

Darrius Reid, #241-07-13328  
Plaintiff Pro Se  
Northern Infirmary Command  
15-00 Hazen St.  
East Elmhurst, NY 11370

Darrius Reid  
Plaintiff Pro Se  
427 Baltic St., Apt. 4E  
Brooklyn, NY 11217

Dated: New York, NY  
June 18, 2008

  
Bradford C. Patrick  
Assistant Corporation Counsel  
Special Federal Litigation

Index No. 07 Civ. 9788 (PAC)(MHD)

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DARRIUS REID,

Plaintiff,

-against-

NEW YORK CITY, NEW YORK POLICE  
DEPARTMENT, 5 JOHN DOE POLICE  
OFFICERS FROM 14<sup>TH</sup> PRECINCT,

Defendants.

**NOTICE OF MOTION AND DECLARATION OF  
BRADFORD C. PATRICK IN SUPPORT OF  
DEFENDANTS' MOTION TO DISMISS THE  
COMPLAINT PURSUANT TO FED. R. CIV. P.  
37(b)(2) and 41(b)**

**MICHAEL A. CARDOZO**

*Corporation Counsel of the City of New York  
Attorney for Defendants City of New York and New York  
City Police Department  
100 Church Street  
New York, N.Y. 10007*

*Of Counsel: Bradford C. Patrick  
Tel: (212) 788-1575  
NYCLIS No.2008-000753*

*Due and timely service is hereby admitted.*

*New York, N.Y. ...., 200.....*

*..... Esq.*

*Attorney for .....*